



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

May 18, 1999




Department of the Interior Acquisition Policy Release (DIAPR) 1999 - 7

Subject: **ELECTRONIC FUNDS TRANSFER (EFT): FINAL RULE AS CONTAINED IN
FEDERAL ACQUISITION CIRCULAR (FAC) 97-11**

1. **Purpose.** This policy release provides interim implementation instructions to bureau and office contracting activities regarding EFT. The instructions are based on the final rule regarding EFT contained in FAC 97-11 (Attachment 1) and the Debt Collection Improvement Act of 1996 - Electronic Funds Transfer Policy and Implementation Guidelines contained in Department of the Interior Financial Administration Memorandum (FAM) No. 98-034 (II.J), dated December 17, 1998 (Attachment 2). Applicable parts of the Department of the Interior Acquisition Regulation (DIAR) and the U.S. Department of the Interior Integrated Charge Card Program Guidelines will be revised to include FAC 97-11 and FAM No. 98-034 (II.J) changes. Interim action items are identified in the attached agencywide implementation instructions.
2. **Effective Date.** The EFT provisions and clauses contained in FAC 97-11 are applicable to acquisition transactions issued on or after May 3, 1999.
3. **Expiration Date.** This guidance will remain in effect until it is formally incorporated as a Federal Acquisition Regulation (FAR) supplement in the DIAR and the U.S. Department of the Interior Integrated Charge Card Program Guidelines.
4. **Background and Explanation.** The EFT final rule amends the FAR to address the use of EFT for Federal contract payments made after January 1, 1999 and to facilitate implementation of the Debt Collection Improvement Act of 1996 (Public Law 104-134) which mandates payment by EFT in most situations. A section-by-section analysis and agencywide implementation instructions are attached. (Attachment 3)
5. **Action Required.** As indicated in attached agencywide implementation instructions.

Please contact Patricia Corrigan of this office on (202) 208-1906 if you have any questions regarding this policy release.


Debra E. Sonderman, Director
Office of Acquisition and Property Management

Attachments

4. Section 13.302-1 is amended by revising paragraph (e) to read as follows:

13.302-1 General.

* * * * *

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(e) In accordance with 31 U.S.C. 3332, electronic funds transfer (EFT) is required for payments except as provided in 32.1110. See Subpart 32.11 for instructions for use of the appropriate clause in purchase orders. When obtaining oral quotes, the contracting officer shall inform the quoter of the EFT clause that will be in any resulting purchase order.

PART 16--TYPES OF CONTRACTS

5. Section 16.505 is amended by redesignating paragraph (a)(6)(viii) as (a)(6)(ix); and adding a new paragraph (a)(6)(viii) to read as follows:

16.505 Ordering.

(a) * * *

(6) * * *

(viii) Method of payment and payment office, if not specified in the contract (see 32.1110(e)).

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PART 32--CONTRACT FINANCING

6-7. Subpart 32.11 is revised to read as follows:

Subpart 32.11--Electronic Funds Transfer

32.1100 Scope of subpart.

32.1101 Statutory requirements.

32.1102 Definitions.

32.1103 Applicability.

- 32.1104 Protection of EFT information.
- 32.1105 Assignment of claims.
- 32.1106 EFT mechanisms.
- 32.1107 Payment information.
- 32.1108 Payment by Governmentwide commercial purchase card.
- 32.1109 EFT information submitted by offerors.
- 32.1110 Solicitation provision and contract clauses.

Subpart 32.11--Electronic Funds Transfer

32.1100 Scope of subpart.

This subpart provides policy and procedures for contract financing and delivery payments to contractors by electronic funds transfer (EFT).

32.1101 Statutory requirements.

31 U.S.C. 3332 requires, subject to implementing regulations of the Secretary of the Treasury at 31 CFR part 208, that EFT be used to make all contract payments.

32.1102 Definitions.

Electronic Funds Transfer (EFT) means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fedwire transfers, and transfers made at automatic teller machines and point-of-sale terminals. For purposes of compliance with 31 U.S.C. 3332 and implementing regulations at 31 CFR part 208, the term "electronic funds transfer" includes a Governmentwide commercial purchase card transaction.

EFT information means information necessary for making a payment by EFT through specified EFT mechanisms.

Governmentwide commercial purchase card, as used in this part, means a card that is similar in nature to a commercial credit card that is used to make financing and delivery payments for supplies and services. The purchase card is an EFT method and it may be used as a means to meet the requirement to pay by EFT, to the extent that

purchase card limits do not preclude such payments.

Payment information means the payment advice provided by the Government to the contractor that identifies what the payment is for, any computations or adjustments made by the Government, and any information required by the Prompt Payment Act.

32.1103 Applicability.

The Government shall provide all contract payments through EFT except if--

(a) The office making payment under a contract that requires payment by EFT, loses the ability to release payment by EFT. To the extent authorized by 31 CFR part 208, the payment office shall make necessary payments pursuant to paragraph (a)(2) of the clause at either 52.232-33 or 52.232-34 until such time as it can make EFT payments;

(b) The payment is to be received by or on behalf of the contractor outside the United States and Puerto Rico (but see 32.1106(b));

(c) A contract is paid in other than United States currency (but see 32.1106(b));

(d) Payment by EFT under a classified contract (see 4.401) could compromise the safeguarding of classified information or national security, or where arrangements for appropriate EFT payments would be impractical due to security considerations;

(e) A contract is awarded by a deployed contracting officer in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13), or a contract is awarded by any contracting officer in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, if--

(1) EFT is not known to be possible; or

(2) EFT payment would not support the objectives of the operation;

(f) The agency does not expect to make more than one payment to the same recipient within a one-year period;

(g) An agency's need for supplies and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than EFT;

(h) There is only one source for supplies and services and the Government would be seriously injured unless payment is made by a method other than EFT; or

(i) Otherwise authorized by Department of the Treasury Regulations at 31 CFR part 208.

32.1104 Protection of EFT information.

The Government shall protect against improper disclosure of contractors' EFT information.

32.1105 Assignment of claims.

The use of EFT payment methods is not a substitute for a properly executed assignment of claims in accordance with Subpart 32.8. EFT information that shows the ultimate recipient of the transfer to be other than the contractor, in the absence of a proper assignment of claims, is considered to be incorrect EFT information within the meaning of the "Suspension of Payment" paragraphs of the EFT clauses at 52.232-33 and 52.232-34.

32.1106 EFT mechanisms.

(a) Domestic EFT mechanisms. The EFT clauses at 52.232-33 and 52.232-34 are designed for use with the domestic United States banking system, using United States currency, and only the specified mechanisms (U.S. Automated Clearing House, and Fedwire Transfer System) of EFT. However, the head of an agency may authorize the use of any other EFT mechanism for domestic EFT with the concurrence of the office or agency responsible for making payments.

(b) Nondomestic EFT mechanisms and other than United States currency. The Government shall provide payment by other than EFT for payments received by or on behalf of the contractor outside the United States and Puerto Rico or for contracts paid in other than United States currency. However, the head of an agency may authorize appropriate use of EFT with the concurrence of the office or agency responsible for making payments if--

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(1) The political, financial, and communications infrastructure in a foreign country supports payment by EFT; or

(2) Payments of other than United States currency may be made safely.

32.1107 Payment information.

The payment or disbursing office shall forward to the contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve

32.1108 Payment by Governmentwide commercial purchase card.

A Governmentwide commercial purchase card charge authorizes the third party (e.g., financial institution) that issued the purchase card to make immediate payment to the contractor. The Government reimburses the third party at a later date for the third party's payment to the contractor.

(a) The clause at 52.232-36, Payment by Third Party, governs when a contractor submits a charge against the purchase card for contract payment. The clause provides that the contractor shall make such payment requests by a charge to a Government account with the third party at the time the payment clause(s) of the contract authorizes the contractor to submit a request for payment, and for the amount due in accordance with the terms of the contract. To the extent that such a payment would otherwise be approved, the charge against the purchase card should not be disputed when the charge is reported to the Government by the third party. To the extent that such payment would otherwise not have been approved, an authorized individual (see 1.603-3) shall take action to remove the charge, such as by disputing the charge with the third party or by requesting that the contractor credit the charge back to the Government under the contract.

(b) Written contracts to be paid by purchase card should include the clause at 52.232-36, Payment by Third Party, as prescribed by 32.1110(d). However, payment by a purchase card also may be made under a contract that does not contain the clause to the extent the contractor agrees to accept that method of payment.

(c) The clause at 52.232-36, Payment by Third Party, requires that the contract--

(1) Identify the third party and the particular purchase card to be used; and

(2) Not include the purchase card account number. The purchase card account number should be provided separately to the contractor.

32.1109 EFT information submitted by offerors.

If offerors are required to submit EFT information prior to award, the successful offeror is not responsible for resubmitting this information after award of the contract except to make changes, or to place the information on invoices if required by agency procedures. Therefore, contracting officers shall forward EFT information provided by the successful offeror to the appropriate office.

32.1110 Solicitation provision and contract clauses.

(a) Unless payment will be made exclusively through use of the Governmentwide commercial purchase card or other third party payment arrangement (see 13.301 and paragraph (d) of this section) or an exception listed in 32.1103(a) through (i) applies--

(1) The contracting officer shall insert the clause at 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, in all solicitations and contracts if the payment office uses the Central Contractor Registration (CCR) database as its source of EFT information. The contracting officer also shall insert this clause if the payment office does not currently have the ability to make payment by EFT, but will use the CCR database as its source of EFT information when it begins making payments by EFT;

(2)(i) The contracting officer shall insert the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration, in all other solicitations and contracts. The contracting officer also shall insert this clause if the payment office currently does not have the ability to make payment by EFT, but will use a source other than the CCR database for EFT information when it begins making payments by EFT.

(ii)(A) If permitted by agency procedures, the contracting officer may insert in paragraph (b)(1) of the clause, a particular time after award, such as a fixed number of days, or event such as the submission of the first request for payment.

(B) If no agency procedures are prescribed, the time period inserted in paragraph (b)(1) of the clause shall be "no later than 15 days prior to submission of the first request for payment."

(b) If the head of the agency has authorized, in accordance with 32.1106, to use a nondomestic EFT mechanism, the contracting officer shall insert in solicitations and contracts a clause substantially the same as 52.232-33 or 52.232-34 that clearly addresses the nondomestic EFT mechanism.

(c) If EFT information is to be submitted to other than the payment office in accordance with agency procedures, the contracting officer shall insert in solicitations and contracts the clause at 52.232-35, Designation of Office for Government Receipt of Electronic Funds Transfer Information, or a clause substantially the same as 52.232-35 that clearly informs the contractor where to send the EFT information.

(d) If payment under a written contract will be made by a charge to a Government account with a third party such as a Governmentwide commercial purchase card, then the contracting officer shall insert the clause at 52.232-36, Payment by Third Party, in solicitations and contracts. Payment by a purchase card may also be made under a contract

that does not contain the clause at 52.232-36, to the extent the contractor agrees to accept that method of payment.

(e) If the contract or agreement provides for the use of delivery orders, and provides that the ordering office designate the method of payment for individual orders, the contracting officer shall insert, in the solicitation and contract or agreement, the clause at 52.232-37, Multiple Payment Arrangements, and, to the extent they are applicable, the clauses at--

(1) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration;

(2) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration; and

(3) 52.232-36, Payment by Third Party.

(f) If more than one disbursing office will make payment under a contract or agreement, the contracting officer, or ordering office (if the contract provides for choices between EFT clauses on individual orders or classes of orders), shall include or identify the EFT clause appropriate for each office and shall identify the applicability by disbursing office and contract line item.

(g) If the solicitation contains the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration, and an offeror is required to submit EFT information prior to award--

(1) The contracting officer shall insert in the solicitation the provision at 52.232-38, Submission of Electronic Funds Transfer Information with Offer, or a provision substantially the same; and

(2) For sealed bid solicitations, the contracting officer shall amend 52.232-

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38 to ensure that a bidder's EFT information--

(i) Is not a part of the bid to be opened at the public opening; and

(ii) May not be released to members of the general public who request a copy of the bid.

PART 52--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Section 52.212-4 is amended by revising the date and the third sentence in paragraph (i) of the clause to read as follows:

52.212-4 Contract Terms and Conditions--Commercial Items.

* * * * *

Contract Terms and Conditions--Commercial Items (May 1999)

* * * * *

(i) * * * If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212-5(b) for the appropriate EFT clause. * * *

* * * * *

9. Section 52.212-5 is amended by revising the date of the clause; in the parenthetical in paragraph (b)(21) by inserting a period after the "C" in "U.S.C."; by redesignating (b)(22) and (b)(23) as (b)(25) and (b)(26); and by adding new paragraphs (b)(22) through (b)(24) to read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders--Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders--Commercial Items (May 1999)

* * * * *

(b) * * *

_____(22) 52.232-33, Payment by Electronic Funds Transfer--
Central Contractor Registration (31 U.S.C. 3332).

_____(23) 52.232-34, Payment by Electronic Funds Transfer--
Other than Central Contractor Registration (31 U.S.C. 3332).

_____(24) 52.232-36, Payment by Third Party (31 U.S.C. 3332).

* * * * *

10. Section 52.213-4 is amended by revising the date of the clause; by removing paragraph (a)(2)(vi); and redesignating paragraphs (a)(2)(vii) through (a)(2)(ix) as (a)(2)(vi) through (a)(2)(viii), respectively; and by adding new paragraphs (b)(1)(ix) and (b)(1)(x) to read as follows:

52.213-4 Terms and Conditions--Simplified Acquisitions (Other Than Commercial Items).

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Terms and Conditions--Simplified Acquisitions (Other Than Commercial Items) (May 1999)

* * * * *

(b) * * *

(1) * * *

(ix) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (May 1999). (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the Central Contractor Registration (CCR) database as its source of EFT information.)

(x) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999). (Applies when the payment will be made by EFT and the payment office does not use the CCR database as its source of EFT information.)

* * * * *

11. Sections 52.232-33 and 52.232-34, headings and text, are revised to read as follows:

52.232-33 Payment by Electronic Funds Transfer--Central Contractor Registration.

As prescribed in 32.1110(a)(1), insert the following clause:

Payment by Electronic Funds Transfer--Central Contractor Registration (May 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House

Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Contractor EFT arrangements. If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a

condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

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(j) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause) .

52.232-34 Payment by Electronic Funds Transfer--Other than Central Contractor Registration.

As prescribed in 32.1110(a)(2), insert the following clause:

Payment by Electronic Funds Transfer--Other Than Central Contractor Registration (May 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

[Federal Register: March 4, 1999 (Volume 64, Number 42)]

[Rules and Regulations]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13, 16, 32, and 52

[FAC 97-11; FAR Case 91-118; Item IV]

RIN 9000-AG49

Federal Acquisition Regulation; Electronic Funds Transfer

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt as final, with changes, the interim rule published in Federal Acquisition Circular 90-42 on August 29, 1996. The rule amends the Federal Acquisition Regulation (FAR) to address the use of electronic funds transfers (EFT) for Federal contract payments made after January 1, 1999, and to

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facilitate implementation of Public Law 104-134 which mandates payment by EFT in most situations.

EFFECTIVE DATE: May 3, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4755, for information

pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, at (202) 501-0692. Please cite FAC 97-11, FAR case 91-118.

SUPPLEMENTARY INFORMATION:

A. Background

Subsection 31001(x)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) amends 31 U.S.C. 3332 to require, subject to the authority of the Secretary of the Treasury to grant waivers, that--

1. Beginning July 26, 1996, payments to newly eligible recipients must be made by EFT unless the recipient of those payments certifies that the recipient does not have an account with a financial institution or an authorized payment agent; and

2. Beginning January 2, 1999, all Federal payments (other than payments under the Internal Revenue Code of 1986) shall be made by electronic funds transfer (EFT).

Under this statute, the Department of the Treasury is responsible for issuing implementing regulations. Treasury issued an interim rule which was published at 61 FR 39254, July 26, 1996. The interim rule added Part 208 to Title 31, Code of Federal Regulations, and addressed the time period from July 26, 1996, through January 1, 1999 ("phase one"). Treasury published a final rule at 63 FR 51490, September 25, 1998 that provides guidance at 31 CFR 208 regarding compliance with Pub. L. 104-134's EFT requirement and establishes the circumstances under which waivers are available for the time period beginning January 2, 1999 ("phase two").

An interim FAR rule was published at 61 FR 45770, August 29, 1996. A proposed FAR rule, which differed significantly from the interim rule, was published at 63 FR 36522, July 6, 1998. Public comments on the proposed rule were received from 17 sources. All comments were considered in developing the final rule.

This final rule differs from the proposed rule to--

- (1) Reflect the analysis and disposition of public comments;
- (2) Implement applicable provisions of Treasury's final rule;
- (3) Remove references to the "phase one" time period, which ended January 1, 1999;
- (4) Add a new contract clause at 52.232-38, Submission of Electronic Funds Transfer Information with Offer;
- (5) Address the situation when an offeror is required to submit EFT information prior to award; and
- (6) Make editorial changes.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993,

and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the majority of small entities will have payment made by EFT under their contracts. An Initial Regulatory Flexibility Analysis (IRFA) was performed in conjunction with the interim rule published at 61 FR 45770, August 29, 1996, and a revised IRFA was performed in conjunction with the proposed rule published at 63 FR 36522, July 6, 1998.

A Final Regulatory Flexibility Analysis (FRFA) has been performed and submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat. The FRFA is summarized as follows:

The objective of the rule is to revise current procedures for the use of electronic funds transfers for Federal contract payments to comply with Subsection 31001(x)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104-134). Subsection 31001(x)(1) of the Act amends 31 U.S.C. 3332 to require, subject to the authority of the Secretary of the Treasury to grant waivers, that all Federal payment shall be made by EFT beginning January 2, 1999.

Several respondents commented on the impact of this rule on small businesses. One respondent remarked on the "financial burden now being inflicted by the changing payment policies." This method of payment, rather than a financial burden, should be economically beneficial to small and large entities. Administratively, EFT information is noncomplex and easy to provide to the Government with an offer, after award, or through the Central Contractor Registration process. Once the information has been furnished, the payment process will be faster and less burdensome than the payment process by check since small businesses will not have to worry about mail delays, depositing checks, lost mail, etc. A second respondent raised the concern about protecting small businesses from financial harm by safeguarding banking information from unauthorized use. The final rule addresses this concern at FAR 32.1104 by requiring agencies to safeguard EFT information provided to the Government.

The final rule will apply, beginning January 2, 1999, to all small and large businesses who enter into contracts with the Federal Government unless one of the conditions enumerated at FAR 32.1103 applies. The rule requires contractors to submit identification and account number information which will enable the Government to make contract payments by EFT. Administrative or financial personnel who

have general knowledge of the contractor's bank account or a financial agent, are able to prepare the information required by the clauses.

The goal of the alternative selected and reflected in the final rule is to provide flexibility with regard to the needs of small entities within the constraints and objectives of Pub. L. 104-134 and implementing Treasury Regulations.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the final rule contains information collection requirements. The collection of this information has been approved by the Office of Management and Budget (OMB) under OMB Control Number 9000-0144. Public comments concerning this request were invited through a Federal Register notice.

List of Subjects in 48 CFR Parts 13, 16, 32, and 52

Government procurement.

Dated: February 25, 1999.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 13, 16, 32, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 13, 16, 32, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 13--SIMPLIFIED ACQUISITION PROCEDURES

2. Section 13.201 is amended in paragraph (d) by removing ``32.1103" and inserting ``32.1110".

3. Section 13.301 is amended at the end of paragraph (b) by adding a new sentence to read as follows:

13.301 Governmentwide commercial purchase card.

* * * * *

(b) * * * See 32.1110(d) for instructions for use of the

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information. (1)

The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by

_____ [the Contracting Officer shall insert date, days after award, days before first request, the date specified for receipt of offers if the provision at 52.232-38 is utilized, or "concurrent with first request" as prescribed by the head of the agency; if not prescribed, insert "no later than 15 days prior to submission of the first request for payment"]. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties

apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be

other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

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(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire

transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

(End of clause)

12. Sections 52.232-35, 52.232-36, 52.232-37, and 52.232-38 are added to read as follows:

52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.

As prescribed in 32.1110(c), insert the following clause:

Designation of Office for Government Receipt of Electronic Funds Transfer Information (May 1999)

(a) As provided in paragraph (b) of the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information, and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office, or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) Designated Office:

Name:

Mailing Address:

Telephone Number:

Person to Contact:

Electronic Address:

(End of clause)

52.232-36 Payment by Third Party.

As prescribed in 32.1110(d), insert the following clause:

Payment by Third Party (May 1999)

(a) General. The Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the Government, in accordance with the terms of this clause. The third party and, if applicable, the particular Governmentwide commercial purchase card to be used are identified elsewhere in this contract.

(b) Contractor payment request. In accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor, the Contractor shall make such payment requests through a charge to the Government account with the third party, at the time and for the amount due in accordance with the terms of this contract.

(c) Payment. The Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party under this clause are not payments made by the Government and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) Documentation. Documentation of each charge against the Government's account shall be provided to the Contracting Officer upon request.

(e) Assignment of claims. Notwithstanding any other provision of this contract, if any payment is made under this clause, then no payment under this contract shall be assigned under the provisions of the assignment of claims terms of this contract or the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15.

(f) Other payment terms. The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided in the third party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

(End of clause)

52.232-37 Multiple Payment Arrangements.

As prescribed in 32.1110(e), insert the following clause:

Multiple Payment Arrangements (May 1999)

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated--

- (a) Elsewhere in this contract or agreement; or
- (b) In individual orders placed under this contract or agreement.

(End of clause)

52.232-38 Submission of Electronic Funds Transfer Information with Offer.

As prescribed in 32.1110(g), insert the following provision:

Submission of Electronic Funds Transfer Information With Offer (May 1999)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration.

- (1) The solicitation number (or other procurement identification number).
- (2) The offeror's name and remittance address, as stated in the offer.
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.
- (5) The offeror's account number and the type of account

(checking, savings, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror's financial agent.

(7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the offeror's financial agent is not directly on-line to the Fedwire and, therefore, not the receiver of the wire transfer payment.

(End of provision)

[FR Doc. 99-5206 Filed 3-3-99; 8:45 am]

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United States Department of the Interior


OFFICE OF THE SECRETARY
Washington, D.C. 20240



December 17, 1998

FINANCIAL ADMINISTRATION MEMORANDUM NO. 98-034 (II.J.)

To: Bureau Assistant Directors, Administration
Chief Executive Officer, National Business Center
Bureau Finance Officers
Finance Officer, Financial Management Services

From: William E. Webber 
Focus Leader, Asset and Debt Management
Office of Financial Management

Subject: Debt Collection Improvement Act of 1996 - Electronic Funds Transfer Policy and Implementation Guidelines

The purpose of this Financial Administration Memorandum (FAM) is to distribute the Department's policy on implementing the electronic funds transfer (EFT) requirements of the Debt Collection Improvement Act (DCIA) of 1996 (Attachment 1), to provide supplemental guidance for implementing the EFT policy (Attachment 2) and to provide a Treasury flyer on the Payment Advice Internet Delivery (PAID) system (Attachment 3). It is suggested that each Bureau Finance Office take the lead in establishing the processes described in Attachment 2 and coordinate with their respective Procurement and Personnel Offices. Some bureaus already have some or all of the suggested procedures in place. However, if not, it is recommended that the procedures outlined be implemented to facilitate implementation of the EFT requirements and to provide consistency throughout the Department.

The Departmental EFT Policy and this FAM were coordinated with the Departmental Offices of Personnel and Acquisition and Property Management. Employee unions have been provided notice of the impending implementation of the EFT requirements of the DCIA. Moreover, the interim and final rules issued by the U.S. Treasury were published in the *Federal Register* with ample opportunity for public comment.

Should you require additional information regarding this FAM, please contact me on (202) 208-5684.

Attachments

cc: Bureau Procurement Chiefs
Interior Federal Assistance Working Group

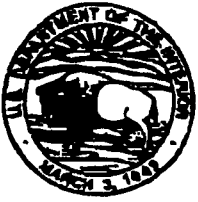
Prior Financial Administration Memorandums on this subject:

96-040 - Dated 8/27/96 - Active

96-045 - Dated 10/1/96 - Active

98-024 - Dated 9/29/98 - Active

98-028 - Dated 10/26/98 - Active



United States Department of the Interior


OFFICE OF THE SECRETARY
Washington, D.C. 20240

NOV 19 1998



Memorandum

To: Bureau Chief Financial Officers

From: John Berry 
Assistant Secretary - Policy, Management and Budget

Subject: Departmental Policy on Electronic Funds Transfer Payment
Requirements of the Debt Collection Improvement Act of 1996

Attached is the Department's policy guidance on implementing the electronic funds transfer (EFT) requirements of the Debt Collection Improvement Act (DCIA) of 1996. The Treasury Department issued the final regulation (31 CFR Part 208) on EFT on September 25, 1998.

If you have questions or require additional information concerning this matter, please contact Sky Leshner on (202) 208-4701.

Attachment

cc: Bureau Finance Officers

POLICY ON COMPLIANCE WITH ELECTRONIC FUNDS TRANSFER PAYMENT REQUIREMENTS

I. Background

The Debt Collection Improvement Act (DCIA) of 1996 requires that all payments (with few exceptions) be made by electronic funds transfer (EFT) after January 1, 1999. The implementing regulation issued by the U.S. Treasury is found in 31 CFR Part 208 and sets forth the conditions under which waivers from EFT payment requirements are appropriate. Treasury Regulations provide seven waiver conditions from EFT payments.

The first waiver condition allows individuals (includes employees and sole proprietors) to self determine whether the use of EFT would impose a hardship due to a physical disability, mental disability, language, literacy or a geographic barrier or where the use of EFT would impose a financial hardship. The waiver is based on the individual's self-assessment that a hardship exists.

For remaining waiver conditions (i.e., Conditions 2 through 7), the U.S. Treasury has delegated agencies the authority and responsibility for making determinations as to whether a payment or class of payments falls within one (or more) of the waiver categories. Waivers are allowed for an indefinite amount of time unless the condition warranting the waiver is no longer met. Treasury reserves the right to review agency compliance with EFT waiver requirements.

II. Policy

A) General.

It is the policy of the Department to utilize electronic payment mechanisms to the fullest extent possible. All payments to non-Federal recipients effective January 2, 1999 are presumed to be made by electronic funds transfer or other EFT compliant alternatives such as those identified below:

<u>For:</u>	<u>Use:</u>
Wage and Salary Payments.....	DD/EFT
Payment of Employee Awards.....	FPPS and DD/EFT
Travel reimbursement vouchers, local and TDY.....	DD/EFT
Cash Advances for Official Travel.....	ATM privilege and DD/EFT (non-cardholders)
Official Travel Expenses.....	Government Contractor-Issued

	Charge Card
Miscellaneous Purchases.....	Government Contractor-Issued
	Charge Card
Fleet and Vehicle Expenses.....	Government Contractor-Issued
	Charge Card
Vendor Payments.....	EFT

B) Use of Convenience Checks - Blanket Waiver Condition.

Selected holders of the government contractor-issued charge card for the purchase business line will have convenience check privileges. Convenience checks may be used **without additional waiver** when the government contractor-issued charge card is not accepted by a given merchant. However, any other uses of convenience checks will require a documented EFT waiver by authorized bureau personnel.

C) Waiver Conditions.

When payment by EFT is not possible a waiver must be obtained. Waiver condition numbers are listed and identified as in the final Treasury regulation.

Waivers Certified by Individuals:

As described below, individuals may request a waiver based on personal hardship. Agencies are not required to notify sole proprietors of their options with respect to hardship waivers.

Condition 1. An individual [includes employees and sole proprietors] with or without an account with a financial institution determines that payment by EFT would impose a hardship due to either a physical or mental disability, or a geographic, language, or literacy barrier, or would impose a financial hardship. The requirement to receive payment by EFT is automatically waived for all individuals who do not have an account with a financial institution and who are eligible to open an electronic transfer account (ETA) under Section 208.5, until such date as the Secretary of the Treasury determines that the ETA is available.

Waiver Authority Delegated to Bureau Chief Financial Officers:

For waiver Conditions 2 through 7 below, the Department hereby redelegates authority to grant or deny EFT waivers to Bureau Chief Financial Officers (CFO). Bureau CFO's may redelegate this authority, as necessary. However, in order to provide reasonable assurance that the spirit of the DCIA is fulfilled, all EFT waiver determinations are to be made at the highest level practicable, consistent with the need to maintain an efficient disbursement operation. The length of redelegated authority is permanent. There are no self-determined waiver conditions for "vendors" other than sole proprietorships covered under Condition 1.

Condition 2. The political, financial, or communications infrastructure in a foreign

country does not support payment by EFT.

- Condition 3. Where the payment is to a recipient within an area designated by the President or an authorized agency administrator as a disaster area. This waiver is limited to payments made within 120 days after the disaster is declared.
- Condition 4. A response to contingency operations conducted by or in support of the Department of Defense.
- Condition 5. Where payment by EFT may pose a threat to national security, the life or physical safety of an individual may be endangered, or a law enforcement action may be compromised.
- Condition 6. Where the agency does not expect to make more than one payment to the same recipient within a one-year period, i.e., the payment is non-recurring, and the cost for making the payment by EFT exceeds the cost of making the payment by check.
- Condition 7. Where an agency's need for goods and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than by EFT; or, where there is only one source for goods or services and the Government would be seriously injured unless payment is made by a method other than EFT.

All elected/approved waivers are to be formally documented based on one or more of the seven waiver conditions. Records of all waivers granted are to be maintained by the bureau and made available for review upon request. Records of EFT waivers must be maintained for at least three years by Bureau Finance Offices. Waivers relating to direct deposit/EFT of employee salary or other employee related payments must be maintained separately from vendor (non-employee) waivers. A waiver filed under condition #1 becomes effective on the date the election is received from an individual; all other waivers become effective when approved by authorized personnel within the Department.

D) Bureau Administrative Requirements.

Bureaus are required to:

1. Take necessary actions to ensure that multiple, non EFT-compliant, payment mechanisms do not proliferate and that all non-EFT compliant payment mechanisms have the appropriate waivers. Examples of proliferation would include authorizing convenience checks, FedSelect and/or third party payment mechanisms at locations which continue to maintain cash imprest funds.
2. Notify check recipients and newly eligible payment recipients of their options

before and after an electronic transfer account (ETA) becomes available. (Model language for this notification is provided by Treasury in the final rule.)

3. Establish procedures that allow recipients to elect to have their payment deposited via EFT to an account at a financial institution.
4. Establish, as part of the management control process, a review of compliance with the EFT provisions of the DCIA.
5. Annually review imprest funds granted a waiver to remain open after January 1, 1999 and meet the requirements of 330 DM 4-3000, Subchapter 7.5 and Treasury Financial Manual (I TFM 4-3000).
6. Provide the Departmental Office of Financial Management (PFM) periodic reports that may be necessary to oversee implementation of the above policy.

Supplemental Guidance for Implementing EFT Policy

Procurement/Contracting Offices -- Vendor & Miscellaneous Payments for All non-Employee Payments (e.g., corporations, partnerships, sole proprietorships, other non-Federal government entities)

- ▶ Provide and attempt to collect EFT enrollment form (TFS 3881 or similar document) at the time the vendor is selected.
- ▶ Include appropriate contract language based on current Federal Acquisition Regulation provisions regarding use of EFT.
- ▶ Obtain the vendor's Taxpayer Identification Number (TIN)

Personnel Offices -

(Note: The Government Management Reform Act of 1994 requires all Federal Employees hired after January 1, 1995 to be paid by EFT. Treasury and Departmental EFT Policy identifies specific hardship conditions under which waivers from the EFT waiver will be granted.)

New Employees:

- ▶ Inform new employees of the requirement that all employee salary and related payments be made via direct deposit (DD)/EFT.
- ▶ Provide all new employees with the appropriate EFT registration form.
- ▶ Keep a copy of the Department's EFT Policy on hand for reference if questions relating to waivers are raised by the new employee.

Current Employees:

- ▶ Work with the Denver Administrative Service Center to identify and try to enlist current paper check payment employees in the DD/EFT program. A program should be adopted that periodically informs all non-EFT employees of the DCIA's EFT requirements.

Finance Offices-

Vendor Payments (All non-employee payments regardless of entity type):

- If TIN or EFT information is not already on file by the time a vendor invoice is received, the following steps should be followed:

1. Determine if the vendor is an individual (or sole proprietor) -- if so, a waiver based on condition one can be granted if the vendor claims a hardship.

In response to previous concerns, should a vendor claim to be a sole proprietor, accept it at face value unless it is obvious that the payment is being made to a corporation (e.g., "Inc.", "PC", "Ltd", etc are present). Such claims can be made verbally or in writing. It should be noted, however, that all payees are required to provide the TIN.

2. Determine whether waiver condition six (one-time payment and cost considerations mitigate against payment by EFT), or waiver condition seven (public exigency rules out use of EFT) apply. Bureaus have been delegated the authority to make these determinations on-the-spot, when necessary.
3. If items 1 and 2 above do not apply, the invoice should be returned to the vendor as a defective invoice (under Prompt Payment Act Rules, OMB Circular A-125). The Finance Office should provide the vendor with the DCIA's EFT and TIN requirements, a statement describing the benefits of EFT (model language can be found in 31 CFR 208 Appendix A and Appendix B), a "sign up" form (TFS 3881 or equivalent) and, at the discretion of the bureau, a copy of the waiver conditions are cited in Attachment 1.
4. The vendor should be advised that further action in processing the invoice will be deferred, pending receipt of the information requested in item 3 (i.e., TIN and/or EFT information), or the receipt (and subsequent granting) of a waiver request.

After waiting a reasonable response period (generally 30 days) or until a second (or follow up) invoice is received, the vendor should have:

- a) provided the TIN and EFT information,
 - b) requested a waiver , or
 - c) expressed (or implied) refusal to provide the information.
5. If a waiver request is submitted, it should be reviewed to ascertain whether the waiver conditions described in Treasury regulations are met.
 6. Invoices associated with waiver requests that are denied should be treated as "one-time" payments (and payment can be made by non-EFT mechanisms). Since the

Prompt Payment clock becomes suspended in step #3 above, no payment interest penalties are due. Every effort should be made to locate an alternate source for the goods/services where payment by EFT will be accepted.

Other Employee-related Payments:

- Presume that if an employee is currently receiving salary via DD/EFT, then all other employee related payments can be made to the same account. However, employees should be provided a notice describing when a payment is sent to their bank, the nature of the payment, the amount, and the procedures to follow if they want future EFT payments to go to a different bank account (i.e., different than where their salary goes).



Financial Management Service

Payment Advice Internet Delivery (PAID) Fact Sheet

What is PAID?

PAID is a system developed by the U.S. Department of the Treasury's Financial Management Service (FMS) to provide participating Federal agencies a method of making remittance information available to their vendors through the Internet. The Internet address for the PAID site is:

<http://arfc.fms.treas.gov>

Why was PAID developed?

AID was developed to provide Federal agencies with an alternative method to deliver remittance information to their vendors. Congressional legislation mandates that after January 1, 1999, most Federal payments, including vendor payments, must be made electronically. Electronic vendor payments with remittance information are sent to the vendor's financial institution through the Automated Clearing House (ACH) system. The vendor's financial institution passes the remittance information to the vendor per a preexisting agreement with the vendor. Some vendors were reluctant to convert to ACH payments because some financial institutions were not able to provide remittance information. The National Automated Clearing House Association (NACHA) passed a rule that effective September 18, 1998, all financial institutions receiving corporate ACH transactions are required to pass addenda information to their corporate customers upon request.

How much does it cost to participate in PAID?

The system is free of charge to participating Federal agencies and their registered vendors with Internet access.

How does a Federal agency participate in PAID?

An agency interested in participating in PAID will sign a Memorandum of Understanding with FMS. Once all the necessary information has been provided and the agreement has been finalized, the agency will notify its vendors that PAID is available.

How does a vendor participate in PAID?

To participate in PAID, you must be using an Internet browser with the capabilities equivalent to Microsoft Internet Explorer version 3.x (or greater) or Netscape Navigator version 3.x (or greater). Vendors interested in participating in PAID should first check the list of participating agencies on the PAID Web site to determine if any of the agencies paying them are participants. Vendors must register for PAID on-line by completing the registration form and choosing one of the following delivery methods: Web access to remittance data, e-mail delivery of remittance data, or e-mail notification of new remittance data. The PAID Web master will verify and activate the vendor's registration, and the vendor will receive e-mail notification of acceptance. A vendor need only register one time for each Taxpayer Identification Number (TIN) to access remittance data from all participating agencies.

What data are in the PAID system?

Displayed data fields are limited to paying agency, date of payment, payment amount, invoice number, and other remittance information such as interest penalty (as provided by the agency in the addendum record). The TIN is used as the key to the vendor registration, but it is not displayed in PAID. Banking

information is not part of PAID. PAID only contains data on payments made by participating agencies to registered vendors. Vendors can only access their remittance payment data. PAID contains data for Cash Concentration and Disbursement (CCD+) Plus Addendum payments only. Given the amount of remittance information contained in a Corporate Trade Exchange (CTX) payment, it is assumed that vendors receiving those transactions have existing agreements with their financial institutions to provide them with the remittance information.

How does a vendor access its data in PAID?

After receiving the registration acceptance notice, a vendor can log into PAID and query, on-line, payments by date, date range, invoice number, dollar amount, agency, or any combination thereof. If a vendor registers for e-mail delivery of remittance data, it will receive a message containing its remittance information. If a vendor registers for e-mail notification, it will receive a message that it has new remittance information in PAID. An on-line demonstration is available on the PAID Web site.

When are data available and for how long?

Data should be available within 24 hours of the date of payment and are retained for two months from the date of payment.

How secure is data on the Internet?

To access PAID, you must be using a browser with capabilities equivalent to Microsoft Internet Explorer version 3.x (or greater) or Netscape Navigator version 3.x (or greater). If you access the Internet through a local area network (LAN) and encounter difficulty accessing the secure site, contact your LAN administrator for assistance. PAID is a secure site using the standard Secure Sockets Layer (SSL) to provide a secure channel of communication between a Web browser and the server. This authenticates the identity of the server to the browser, and provides privacy by encrypting and decrypting all data sent between them.

If a vendor receives data through PAID but still has a question, whom should it contact?

Information in PAID appears as it is provided by the Federal agency authorizing the payment. If a vendor has any questions or needs additional information about data displayed in PAID, it must contact the agency that authorized the payment. Participating agency contacts are listed on the PAID Web site.

What alternatives to PAID are available?

The primary alternative to PAID is for the vendor to receive its remittance information from its financial institution. Registration in PAID does not preclude the remittance information from accompanying the payment. The financial institution still receives the payment and the remittance information. Vendors that want to streamline their accounts-receivable processing may prefer to receive the remittance information electronically from their financial institutions and pass it directly to their accounts-receivable systems. Several Federal agencies have developed alternative methods to deliver remittance information, including their own Web sites, touch-tone telephone response systems, and fax-on-demand systems. A list of these Federal agencies is available on the PAID Web site.

July 1998

IMPLEMENTATION INSTRUCTIONS: FINAL RULE REGARDING ELECTRONIC FUNDS TRANSFER AS CONTAINED IN FEDERAL ACQUISITION CIRCULAR (FAC) 97-11 and DEPARTMENT OF THE INTERIOR FINANCIAL ADMINISTRATION MEMORANDUM NO 98-034 (ILJ.) DATED DECEMBER 17, 1998

Based on the final rule contained in FAC 97-11, Federal Acquisition Regulation (FAR) Parts 13, 16, 32 and 52, supplementary sections of the Department of the Interior Acquisition Regulation (DIAR) and the U.S. Department of the Interior Integrated Charge Card Program Guidelines (November 1998) (Charge Card Guidelines) are amended as follows:

FAC 97-11 Changes:

- **FAR Part 13:**

(1) The first sentence in FAR 13.201(d) was amended to reference a new FAR section applicable to EFT, and read as follows: "(d) Micro-purchases do not require provisions or clauses, except as provided at 32.1110."

Interim DIAR and/or Charge Card Guidelines Amendments

-Applies to the contracting officer's level as covered in the FAR. No supplementary interim DIAR changes required for this section. Charge Card Guidelines will be amended to cross reference this section.

(2) FAR 13.301(b) regarding the Governmentwide commercial purchase card was amended to add a new sentence that refers users to the guidance at FAR 32.110(d) regarding selection of the proper provision/clause when payment under a written contract will be made through use of the card, i.e., FAR 52.232-36, Payment by Third Party (May 1999). This is a new clause.

Interim DIAR and/or Charge Card Guidelines Amendments

-Applies to the contracting officer's level as covered in the FAR. No supplementary interim DIAR changes required for this section. Since the Charge Card Guidelines are primarily written to address micropurchases, i.e., use of the charge card as a procurement method for micropurchases, an annex will be added to the Charge Card Guidelines providing instructions for personnel with contracting officer's warrants who are authorized to use the charge card as a method of payment. The annex will reference the revised guidance at FAR 13.301(b) and the prescription regarding the clause/provision at FAR 52.232-36, Payment by Third Party (May 1999).

Both FAR 13.301(b) and section 3.1.B of the Charge Card Guidelines encourage use of the charge card by warranted contracting officers as a method of payment for transactions over the micropurchase threshold, i.e., to place orders and to pay for

purchases against contracts under FAR Part 8 procedures, and to place orders and/or make payment under other contractual instruments, when agreed to by the contractor. In the interim, pursuant to the revised guidance at FAR 13.301(b), warranted personnel shall include the clause at 52.232-36, Payment by Third Party (May 1999) when payment under a written contract will be made through use of the card. (Note: This includes purchase orders. See definition for "in writing" or "written" in FAR 2.101.)

(3) FAR 13.302-1(e) is completely revised to indicate that EFT is required for payments unless the exceptions provided in FAR 32.1110 apply (Note: DOI's policy (as stated in FAM 98-034) does not include all of the exceptions identified in FAR 32.1110. For that reason, only the exception conditions identified in FAM 98-034 shall be used in requesting and granting EFT waivers.)

If waivers have not been granted by the bureau/office Chief Financial Officer or his/her designee, when obtaining oral quotes, the contracting officer shall inform the quoter of the EFT clause that will be in any resulting purchase order, e.g., FAR 52.232-36, Payment by Third Party, FAR 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (31 U.S.C. 3332), etc.

Also, the previous FAR coverage stating that "contracting officers shall not accept EFT payment data. The contractor shall provide all such data directly to the payment office" has been eliminated from this section. The option is now open for bureau/office Chief Financial Officers or their designees to determine and designate the most suitable office responsible for collecting EFT enrollment information within their respective bureau/office, e.g., finance office, payment office, disbursing office or contracting office. Once established, the office address shall be used in solicitations and contracts that include the clause at FAR 52.232-35, Designation of Office for Government Receipt of Electronic Funds Transfer Information (May 1999).

Interim DIAR and/or Charge Card Guidelines Amendments

- Supplementary interim DIAR changes in 1413 will be made to incorporate FAM 98-034 (II.J.)'s requirements regarding conditions for EFT exceptions. Bureau/office supplemental policy should designate the most suitable office responsible for collecting EFT enrollment information as determined by the bureau/office Chief Financial Officer or his/her designee. FAR 13.302-1(e) will be referenced in the annex to the Charge Card Guidelines.

FAR Part 16: The coverage at 16.505 (a)(6) which lists required information when placing orders under indefinite delivery contracts is amended at 16.505(a)(6)(viii) to include method of payment and payment office information, i.e., (viii) Method of payment and payment office if not specified in the contract (see 32.1110(e)).

Interim DIAR and/or Charge Card Guidelines Amendments

-Applies to the contracting officer's level as covered in the FAR. No supplementary interim DIAR amendments required. Inclusion of coverage regarding identification of method of payment, e.g., Payment by Third Party, will be covered in the annex to the Charge Card Guidelines.

- **FAR Part 32:** Subpart 32.11, Electronic Funds Transfer, is extended from four to eleven sections.

(1) Section 32.1100 Scope of subpart. Revises previous scope of subpart to include "contract financing and delivery payments to contractors by EFT."

Interim DIAR and/or Charge Card Guidelines Amendments

-No supplementary interim DIAR or Charge Card Guidelines amendments required for this section.

(2) Section 32.1101 Statutory requirements. Revises previous coverage under 32.1101 Policy, to state that 31 U.S.C. 3332 requires that EFT be used to make all contract payments subject to implementing regulations at 31 CFR part 208.

Interim DIAR and/or Charge Card Guidelines Amendments

-No supplementary interim DIAR or Charge Card Guidelines amendments required for this section.

(3) Section 32.1102 Definitions. New section. Last sentence of EFT definition and definition of Governmentwide commercial purchase card identify the purchase card as an EFT method that may be used as a means to meet the requirement to pay by EFT, to the extent that purchase card limits do not preclude such payment transactions in the term, "electronic funds transfer."

Interim DIAR and/or Charge Card Guidelines Amendments

-No supplementary interim DIAR amendments required for this section. Charge Card Guidelines section 1.3 Definitions, will be amended to include the definition for EFT inclusive of the Governmentwide commercial purchase card or the charge card as contained in FAR 32.1102.

(4) Section 32.1103 Applicability. New section. States the requirement that the Government shall provide all contract payments through EFT unless certain exceptions apply for which written waivers are required.

Interim DIAR and/or Charge Card Guidelines Amendments

-DIAR 1432 will be amended to reference the exceptions and delegation of authority to issue waivers identified in FAM 98-034 (II.J.). In the meantime, the Department

of the Interior policy guidance on implementing the EFT requirements of the Debt Collection Improvement Act of 1996, as signed by the Assistant Secretary-Policy, Management and Budget on November 19, 1998 and contained in FAM 98-034 (II.J.) shall apply in implementation of FAR 32.1103. Again, please note, there are fewer EFT waiver conditions and authorities identified in section II. C of FAM 98-034 (II.J.) than in FAR 32.1103. Only the conditions for exception specified in FAM 98-034 (II.J.) shall apply to DOI transactions.

Both FAR 32.1103(f) and FAM 98-034 (II.J.) allow for an EFT exception when an agency does not expect to make more than one payment to the same recipient within a one-year period. Since FAM 98-034(II.J.) delegates exception/waiver authority from the Assistant Secretary- Policy, Management and Budget to Bureau Chief Financial Officers and their designees, the term "agency" as used in FAM 98-034 (II.J.) applies to DOI bureaus/offices and not to the Department of the Interior only.

Bureau Chief Financial Officers are responsible for developing bureau-specific policy regarding any re-delegation of waiver authority pursuant to FAM 98-034 (II.J.) and internal procedures for obtaining and maintaining waivers in accordance with the requirements of section II. C of FAM 98-034 (II.J.).

Section II.B of FAM 98-034 (II.J.) contains a blanket waiver for use of convenience checks by individuals with charge card purchase authority only when their charge card is not accepted by a merchant. Use of convenience checks for any other reasons requires that an individual waiver be requested and granted on a per case basis by authorized bureau personnel prior to check issuance. This policy is currently in effect and will be incorporated in section 2.6 of the Charge Card Guidelines.

(5) Section 32.1104 Protection of EFT information. New section requiring Government safeguarding of contractors' EFT information from improper disclosure.

Interim DIAR and/or Charge Card Guidelines Amendments

-Requirement to assure the safeguarding of electronic commerce information from loss, misuse, or unauthorized access or modification is contained in FAR 4.502(c). DIAR 1432 will be amended to state, and it is the interim policy, that responsible personnel shall safeguard and not improperly disclose any payment information that they may gather from offerors and/or contract awardees as a result of using the clause at FAR 52.232-34 Payment by Electronic Funds Transfer—Other than Central Contractor Registration or through access and use of any electronic commerce systems.

-No supplementary interim Charge Card Guidelines amendments required for this section per FAR 32.1110(a).

(6) Section 32.1105 Assignment of claims. No change from previous assignment of claims coverage at FAR 32.1102.

Interim DIAR and/or Charge Card Guidelines Amendments

-No interim supplementary DIAR or Charge Card Guidelines amendments required for this section.

(7) Section 32.1106 EFT mechanisms. New section regarding domestic and nondomestic EFT mechanisms. As stated in II.A. of FAM 98-034 (II.J.), "it is the policy of the Department to utilize electronic payment mechanisms to the fullest extent possible. All payments to non-Federal recipients effective January 2, 1999 are presumed to be made by electronic funds transfer or other EFT compliant alternatives..." Condition 2 in section IIC of FAM 98-034 (II.J.) allows for the granting of an EFT waiver if "the political, financial, or communications infrastructure in a foreign country does not support payment by EFT."

Interim DIAR and/or Charge Card Guidelines Amendments

-DIAR 1432 will be amended to incorporate FAM 98-034 (II.J.)'s policy, which shall be used to supplement the requirements at FAR 32.1106 in the interim.

-No Charge Card Guidelines amendments required for this section.

(8) Section 32.1107 Payment information. New section requiring agency payment or disbursing offices to provide contractors with payment information.

Intrim DIAR and/or Charge Card Guidelines Amendments

-No supplementary interim DIAR or Charge Card Guidelines amendments required for this section.

(9) Section 32.1108 Payment by Governmentwide commercial purchase card. This is a new section which establishes payment policy for transactions in which the charge card is used as a method of payment. A new clause at 52.232-36, Payment by Third Party (May 1999), shall be used in written contracts for which payment will be made with the charge card (this includes open market contract awards over the \$2,500 micropurchase threshold (see definition for "contract" in FAR 2.101)). The clause requires that the contract: (a) identify the third party, i.e., NationsBank, and the particular purchase card to be used, i.e., MasterCard; and (b) not include the charge card account number. The charge card account number should be provided separately to the contractor.

FAR 32.1108(b) states that payment by a charge card also may be made under a contract that does not contain the clause at 52.232-36 as long as the contractor agrees to accept that method of payment.

FAR 32.1108(a) identifies principal parties in the charge card payment process and incorporates the charge card disputes process. In the interim, as implemented within the DOI, the clause (at 52.232-36) provides that a contractor shall make its payment request by a charge to a Government cardholder account with the third party, i.e., NationsBank, at the time the payment clause(s) of the contract authorizes the contractor to submit a request for payment, and for the amount due in accordance with the terms of the contract. To the extent that such a payment would otherwise be approved, the charge against the charge card should not be disputed when the charge is reported to the Government by NationsBank. To the extent that such payment would otherwise not have been approved, an authorized individual (i.e., see delegation of micropurchase authority in Charge Card Guidelines section 3.1.A. and DIAR 1401.603 for warranted contracting officers) shall take action to remove the charge, such as disputing the charge with NationsBank or by requesting that the contractor credit the charge back to the Government under the contract. See section 3.3 of the Charge Card Guidelines, second paragraph, and page 17, "Disputes and Billing Errors" in the NationsBank MasterCard Integrated Card Program Cardholder Program Guide.

Interim DIAR and/or Charge Card Guidelines Amendments

- No interim supplementary DIAR coverage required for FAR 32.1108(b)'s prescribed use of the clause at 52.232-36, Payment by Third Party (May 1999). DIAR 1401.603 will be amended to incorporate the delegation of micropurchase authority contained in section 3.1.A. of the Charge Card Guidelines. DIAR 1432 will be amended to supplement the coverage in FAR 32.1108(a) by referencing the DOI charge card contractor and the disputes procedure references identified above.

- The annex to the Charge Card Guidelines will cross reference FAR 32.1108 and supplementary DIAR guidance.

(10) Section 32.1109 EFT information submitted by offerors. New section which minimizes EFT information collection burden on vendors by specifying that if offerors are required to submit EFT information prior to award the successful offeror does not have to resubmit this information after contract award except to make changes, or to place the information on invoices if required.

Note: Currently, DOI, offerors are not required to submit EFT information. DOI will use the clause at FAR 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration, section (j) of which requires "the Contractor" to provide various EFT information.

Interim DIAR and/or Charge Card Guidelines Amendments

-Applies to the contracting officer's level as covered in the FAR. No supplementary interim DIAR or Charge Card Guidelines changes required for this section.

(11) FAR 32.1110 Solicitation provision and contract clauses. A new section providing EFT provision/clause prescriptions as contained in FAR Part 52.

Interim DIAR and/or Charge Card Guidelines Amendments

-The following prescriptions, clauses/provisions will be incorporated in DIAR 1432, as appropriate, and shall be used in the interim:

Bureau/office Interior Department Electronic Acquisition System-Procurement Desktop System Administrators shall amend their local clauses and matrices to include the following prescriptions and clauses until the required FAR clauses are provided in an upcoming IDEAS-PD release:

(1) Amend section 52.212-4 by revising the date and the third sentence in paragraph (i) of the clause to read as follows:

52.212-4 Contract Terms and Conditions—Commercial Items.

(i) *** If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212-5(b) for the appropriate EFT clause. ***

(2) Amend section 52.212-5 by revising the date of the clause; in the parenthetical In paragraph (b)(21) by inserting a period after the "C" in "U.S.C.;" by redesignating (b)(22) and (b)(23) as (b)(25) and (b)(26); and by adding new paragraphs (b)(22) through (b)(24) to read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

Contract Terms and Conditions Required To Implement Statutes or Executive Orders-
Commercial Items (May 1999)

(b)***

_____(22) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (31 U.S.C. 3332).

____(23) 52.232-34, Payment by Electronic Funds Transfer-Other than Central Contractor Registration (31 U.S.C. 3332).

____(24) 52.232-36, Payment by Third Party (31 U.S.C. 3332).

(3) Amend section 52.213-4 by revising the date of the clause; by removing paragraph (a)(2)(vi); and redesignating paragraphs (a)(2)(vii) through (a)(2)(ix) as (a)(2)(vi) through (a)(2)(viii), respectively; and by adding new paragraphs (b)(1)(ix) and (b)(1)(x) to read as follows:

52.213-4 Terms and Conditions--Simplified Acquisitions (Other Than Commercial Items)

Terms and Conditions--Simplified Acquisitions (Other Than Commercial Items)
(May 1999)

(b)***

(1)***

(ix) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (May 1999). (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the Central Contractor Registration (CCR) database as its source of EFT information.)

(x) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999). (Applies when the payment will be made by EFT and the payment office does not use the CCR database as its source of EFT information.)

(4) The contracting officer shall insert the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999) in all solicitations and contracts unless payment will be made exclusively through use of the charge card. (DOI does not use the CCR. Therefore, the clause at 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration is not applicable to DOI transactions.)

The contracting officer may insert in paragraph (b)(1) of the clause, a particular time after award, such as a fixed number of days, or event such as the submission of the first request for payment.

(5) Contracting officers shall insert in solicitations and contracts the clause at 52.232-35, Designation of Office for Government Receipt of Electronic Funds Transfer Information (May 1999), or a clause substantially the same as 52.232-35 that clearly informs the contractor where to send EFT information. Bureau/office Chief Financial Officers or their designees are responsible for determining the respective bureau/office point for receipt of EFT information, e.g., contracting offices, payment offices, disbursing offices, or finance offices.

(6) If payment under a written contract (this includes purchase orders) will be made by a charge to a Government charge cardholder account with a third party such as NationsBank, then the contracting officer shall insert the clause at 52.232-36, Payment by Third Party, in solicitations and contracts. Payment by a purchase card may also be made under a contract that does not contain the clause at 52.232-36, to the extent the contractor agrees to accept that method of payment.

(7) If a contract or agreement provides for the use of delivery orders, and provides that the ordering office designate the method of payment for individual orders, the contracting officer shall insert, in the solicitation and contract or agreement, the clause at 52.232-37, Multiple Payment Arrangements, and, to the extent they are applicable, the clauses at –

- A. 52.232-34, Payment by Electronic Funds Transfer–Other than Central Contractor Registration; and
- B. 52.232-36, Payment by Third Party.

(8) If more than one disbursing office will make payment under a contract or agreement, the contracting officer, or ordering office (if the contract provides for choices between EFT clauses on individual orders or classes of orders), shall include or identify the EFT clause (with the exception of 52.232-33, Payment by Electronic Funds Transfer–Central Contractor Registration) appropriate for each office and shall identify the applicability by disbursing office and contract line item.